

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 L-03 H-01 COME-00 CIAE-00
INR-10 NSAE-00 PA-01 ICA-11 SS-15 NSC-05 SP-02
/069 W

-----076882 290052Z /64

R 281711Z JUN 78
FM AMEMBASSY LONDON
TO SECSTATE WASHDC 7646
TREASURY DEPT WASHDC
INFO AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 01 OF 02 LONDON 10291

PARIS PASS DAVID ROSENBLOOM, USOECD

E.O. 11652: GDS
TAGS: EFIN, UK
SUBJECT: US-UK TAX TREATY

REF: (A) STATE 163332 (B) STATE 161407

1. TREASURY REPRESENTATIVE DISCUSSED SENATE ACTION WITH FREDDY DALTON, COMMISSIONER AT INLAND REVENUE. DALTON SAW THREE POSSIBILITIES FOR THE BRITISH, GIVEN THE SENATE VOTE WITH RESERVATION ON SECTION 9(4). THEY COULD (1) ACCEPT THE TREATY WITH RESERVATION MAKING NO FURTHER CHANGES IN IT; (2) REJECT THE TREATY COMPLETELY; OR (3) TRY TO FIND SOME MIDDLE GROUND, HOPEFULLY A HALF-WAY HOUSE SOLUTION THAT WOULD BE ACCEPTABLE TO BOTH PARTIES.

2. BECAUSE OF THE SENATE RESERVATION, THE TREATY, FROM THE U.K. POINT OF VIEW, MUST GO BACK TO PARLIAMENT. DALTON THOUGHT THE CURRENT SESSION OF PARLIAMENT WOULD RISE PROBABLY WITHIN 2-4 WEEKS. THE NEXT PARLIAMENT IS SCHEDULED TO BEGIN IN OCTOBER. THERE IS
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A GOOD CHANCE THAT AN ELECTION WILL INTERVENE.

3. DALTON SAID HE HAS NO INDICATION FROM HIS POLITICAL MASTERS WHAT LINE THEY WILL TAKE. WHEN THE TREATY WAS RATIFIED BY PARLIAMENT, INLAND REVENUE DID NOT ENTER INTO ANY CONTINGENCY DISCUSSIONS NOR HAVE THEY-- ACCORDING TO DALTON--SINCE THEN. INLAND REVENUE

CONSIDERED IT BETTER TO AWAIT DEVELOPMENTS IN THE U.S. HE SAID IT WOULD BE HELPFUL TO THE U.K. IF THERE COULD BE SOME OFFSETTING BALANCE MADE IN THE TREATY IN THE U.K.'S FAVOR. THIS WOULD BE BENEFICIAL WITH PARLIAMENT, BUT IT WOULD MEAN THAT THE TREATY ALSO WOULD HAVE TO GO BACK TO THE U.S. CONGRESS ONCE AGAIN.

4. DALTON ALSO CITED THE POSITION BEING TAKEN BY THE CONFEDERATION OF BRITISH INDUSTRY WHICH HAS SAID THAT THIS IS "A MATTER ON WHICH A STAND MUST BE TAKEN". HE CONFIRMED THAT THE CONFEDERATION OF BRITISH INDUSTRY'S TAX COMMITTEE HAS SAID THAT IT WOULD PRESS FOR RENEGOTIATION OF THE TREATY REGARDLESS OF THE DELAYS THAT THIS WOULD INVOLVE. DALTON PERSONALLY EXPRESSED A DESIRE NOT TO HAVE TO BEGIN AGAIN, I.E., TO RENEGOTIATE THE ENTIRE TREATY. HE SAID THE U.K. IS CLEARLY DISAPPOINTED; AN ENORMOUS AMOUNT OF TIME HAS BEEN WASTED BUT "THAT'S LIFE".

5. DALTON REPORTED HE HAD A CONVERSATION WITH DONALD LUBICK, DEPUTY ASSISTANT SECRETARY TAX LEGISLATION, U.S. TREASURY, WHO WAS IN GENERAL AWARE OF THE ABOVE VIEWS, AND THAT DAVID ROSENBLOOM FROM THE OFFICE OF TAX POLICY IN U.S. TREASURY MIGHT PASS THROUGH LONDON EARLY NEXT WEEK TO DISCUSS THE GENERAL SITUATION.

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6. THE EMBASSY REPORTED SOME MONTHS AGO THAT INLAND REVENUE SOURCES CONSIDERED THAT A RESERVATION ON SECTION 9(4) WOULD PLACE HMG IN A DIFFICULT POSITION INASMUCH AS THE HOUSE OF COMMONS HAD ALREADY APPROVED THE TREATY. IT WOULD MEAN THAT INLAND REVENUE AND HM TREASURY WOULD HAVE TO RETURN TO THE COMMONS EXPLAINING THAT THE U.S. SENATE HAD OBJECTED TO ONE CLAUSE WHICH THE BRITISH CONSIDERED A CONCESSION. INLAND REVENUE OFFICIALS AT THAT TIME THOUGHT THERE COULD BE GREAT DIFFICULTY IN HAVING THE TREATY RE-RATIFIED BY PARLIAMENT WITHOUT FURTHER AMERICAN CONCESSIONS TO REPLACE SECTION 9(4). THE EMBASSY WOULD ALSO RECALL THE NEGOTIATING HISTORY OF THE TREATY, THE THREATENED U.S. TERMINATION OF THE CURRENT TREATY IF THE U.K. DID NOT MAKE MORE CONCESSIONS IN THE NEW ONE, AND AN EVENTUAL OUTCOME IN WHICH THE U.K. CONSIDERED THAT IT HAD GONE QUITE FAR IN MAKING CONCESSIONS.

7. THE QUALITY PRESS, WEDNESDAY, JUNE 28, (TIMES AND FINANCIAL TIMES) HAS GIVEN CONSIDERABLE PLAY TO THE SENATE ACTION, INCLUDING AN EDITORIAL IN THE FINANCIAL TIMES. KEY EXCERPTS FOLLOW:

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TO SECSTATE WASHDC 7547
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C O N F I D E N T I A L SECTION 02 OF 02 LONDON 10291

"YESTERDAY THE SENATE VOTED ON A REVISED VERSION,
WITHOUT THE CONTROVERSIAL CLAUSE 9(4) WHICH DEALS
WITH THE UNITARY SYSTEM OF TAXATION IMPOSED BY CALIFOR-
NIA AND TWO OTHER STATES, AND APPROVED IT BY A SUBSTAN-
TIAL MAJORITY. BUT FOR THE BRITISH GOVERNMENT AND
BRITISH INVESTORS, CLAUSE 9(4) WAS THE KEY ELEMENT.
CONSIDERABLE CONCESSIONS HAD BEEN MADE TO U.S. COMPANIES
OPERATING IN THE U.K.; SOME HAVE SAID THAT THESE CON-
CESSIONS WERE FAR TOO GENEROUS. BUT THEY WERE JUSTIFIED
ON THE BASIS THAT U.K. COMPANIES WERE TO BE RELIEVED
OF THE UNFAIR AND ONEROUS SYSTEM OF UNITARY TAXATION..."

"WHAT HAPPENS NEXT IS NOT AT ALL CLEAR. THERE WILL
BE STRONG PRESSURE FROM THE BRITISH SIDE TO RENEGOTIATE
THE ENTIRE TREATY AND THIS COULD INCLUDE WITHDRAWAL
OF SOME OF THE CONCESSIONS MADE DURING THE NEGOTIATIONS.
A FURTHER PERIOD OF UNCERTAINTY IS INEVITABLE AND THIS
CAN HARDLY BE GOOD FOR THE FREE FLOW OF INVESTMENT
BETWEEN THE TWO COUNTRIES..."

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"THE CALIFORNIAN APPROACH HAS BEEN WIDELY CONDEMNED BECAUSE IT SUBJECTS TO STATE TAX INCOME WHICH DOES NOT ARISE IN THE STATE. IT IS CONTRARY TO THE ARM'S LENGTH PRINCIPLE WHICH IS FOLLOWED BY THE U.S. FEDERAL GOVERNMENT AND WHICH IS EMBODIED IN THE MODEL INCOME TAX CONVENTION PREPARED BY THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT; THAT CONVENTION SPECIFICALLY APPLIES TO THE ARM'S LENGTH PRINCIPLES TO SUBSIDIARY LEVELS OF GOVERNMENT..."

"IT IS IN THE INTERESTS OF THE U.S. AND THE U.K. THAT THE TAX TREATMENT OF MULTINATIONALS THROUGHOUT THE WORLD IS FAIR, AND THE DOUBLE TAXATION TREATY WAS TO HAVE BEEN A MODEL FOR OTHER COUNTRIES. THE DAMAGE CAUSED BY THE SENATE'S ACTION NEEDS TO BE QUICKLY REPAIRED."

8. ACTION REQUESTED: WOULD BE GRATEFUL IF (A) ROSENBLOOM WOULD ALSO BRIEF INTERESTED EMBASSY OFFICER; AND (B) WASHINGTON WOULD KEEP EMBASSY INFORMED OF ANY PERTINENT CONVERSATIONS.

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Message Attributes

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